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## EXHIBIT 3

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9/17/98 COMMD (No Page)			COMMD
9/17/98 Comm. Daily (Pg. Unavail. Online)			
1998 WL 10697307			

COMMUNICATIONS DAILY  
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Thursday, September 17, 1998

Volume 18; Issue 180

TELEPHONY

FCC proposed Wed. to remove barrier to faster modem speeds by allowing digital 56 kbps modems to use more network power. Change suggested in notice of proposed rulemaking would relax 2-decade-old rule that limited amount of signal power that can be transmitted through phone network. If adopted, proposal would allow for **"moderately"** higher modem speeds (true 56 kbps instead of current 53.6 kbps) from **ISPs** to consumers, FCC said. Action is latest in Commission's biennial review, in which agency must examine rules and eliminate or streamline those it finds outdated. Power limitations were contained in Part 68 of Commission rules that set technical parameters for terminal equipment and limited power levels to prevent electrocution, malfunctions, interference. FCC said it thinks signal power limitations can be relaxed without causing interference or technical problems, but it asked for comment on **"any** benefits and **harms"** that might result. It said that while proposal would produce **"somewhat higher"** modem speeds, it still intends to remove other impediments to faster data transmission when it's in "public interest." Chmn. Kennard said proposed change is "common-sense **move**" and is "just a small part of the FCC's ongoing effort to end the worldwide wait." Comr. Furchtgott-Roth approved rules, but reiterated his belief that scope of biennial review is too narrow and should encompass all FCC regulations. Comments on proposal are due at FCC 30 days from when it is published in Federal Register. Reply comments are due 15 days later.

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Unit of Nextel leapfrogged Intel Global in bidding for almost every major license in 2nd round of FCC's 220 MHz spectrum auction Wed. Nextel outbid Intel for 2 of 3 national licenses, all 6 regional licenses and spectrum in all top 10 markets except San Francisco. Sophia License bid topped Intel for 3rd national license, FCC said. However, total top bids for auction increased just 2.3% to \$5.58 million. Commission's spectrum auctions often last for weeks. Licenses in 220 MHz block are used primarily for mobile data services and paging.

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Reciprocal compensation should be abolished for calls to Internet service providers because it reduces incentive for competitive **LECs (CLECs)** to upgrade to high-speed network, Covad Communications Chmn. Chuck **McMinn** said Tues. in speech to Economic Strategy Institute in Washington. **"I think reciprocal**

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compensation is a boondoggle," he said, and incumbent **LECs (ILECs)** have "legitimate point." McMinn also said he fully supported recent FCC notice of proposed rulemaking on Telecom Act Sec. 706 to allow ILECs to enter data services market through separate subsidiary. If ILECs are "forced to deal with their own bureaucracy, they'll simplify, streamline and eliminate" process for obtaining capacity on digital subscriber line (**DSL**) networks, he said. Covad is CLEC providing DSL service in San Francisco area with upcoming service planned for L.A., N.Y. McMinn said DSL is "fundamentally an interstate **service**" and encouraged FCC to "exercise their authority" to develop set of consistent, national standards. He said local market still is heavily regulated --even for **CLECs** -- and until this year Covad employed more lawyers than marketers.

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Nortel is cutting 3,500 employees as part of plan to shift business from making traditional network equipment to advanced equipment, company announced. It said layoffs, representing 3% of work force, will allow it to focus on "growth opportunities in data networking." Workforce will be reduced in each of **Nortel's** units except for recently acquired Bay Networks. Company said it will eliminate managers, seek "additional operational efficiencies," realign units. Meanwhile, GTE approved Nortel access equipment for its network and deployed equipment in Cal., Fla., Tex. Nortel also said it extended its integrated service to wireless users, allowing them to move between private office system and public wireless network.

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U S West introduced call management service to prevent Web users with single phone line from missing calls. Using technology developed by **eFusion**, U S West said service identifies caller and allows option of accepting call, sending call to voice mail or transferring call to another number. Service will be available to U S West customers in Omaha, Minneapolis and St. Paul by year-end, with plans to expand to other major markets in 1999.

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Objective Communications signed reseller agreement with TDS Datacom, Madison, Wis., for delivery of video services, including videoconferencing and video-on-demand.

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Lucent selected **Equant's** global services management system to provide additional services and support in 55 countries for its international data network.

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In victory for **CLECs**, N.Y. PSC ruled that Bell Atlantic (**BA**) can't bar former business partners from serving customers they contacted through BA

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partnership and can't charge customers termination fee for switching service to new competitor. Ruling stems from long-running dispute in which BA tried to block former agent CTC Communications from serving former BA customers that it acquired through work as BA partner. PSC said that charging termination fee to customers who switch to new competitors violates Telecom Act and state law because it's "discriminatory and designed to protect market share." Agency said Act prohibits unreasonable restrictions or limitations on resale. CTC Chmn. Robert Fabbriatore said decision is important because it sets precedent that **CLECs** can "freely compete."

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Minn. Attorney Gen. Hubert Humphrey III filed complaint with state PUC accusing U S West of discriminating against nonaffiliated Internet service providers (**ISP**) in its marketing and deployment of its high-speed ADSL "**MegaBit**" Internet access service and with "Internet slamming." Complaint alleges U S West is using its monopoly provision of MegaBit access lines to "squeeze out its [Internet] competition by discriminating in favor of its own affiliate\* **USWEST.Net**. U S West delayed installation of MegaBit service to competitors, filing charged, but provided all of necessary connections to **USWEST.Net**, giving its own Internet service head start and unfair advantage. Humphrey said: "A delay of 2 weeks or a month in an extremely competitive environment can provide US West with a significant and unfair market advantage." He also charged carrier with Internet slamming by switching MegaBit customers from their designated ISP to **USWEST.Net** without authorization. U S West is unfairly using MegaBit access-line ordering process to steer customers toward its Internet affiliate, complaint contended. It asked PUC to end discriminatory practices and compel U S West to treat affiliated and nonaffiliated **ISPs** equally. Complaint also called on PUC to establish monitoring and reporting of capacity availability and to require that MegaBit service be available for resale.

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Ida. PUC approved rate rebalancing plan for GTE Northwest that shifts revenues from access services onto basic exchange service. Plan will increase monthly local service rates **\$1.35-\$2.85** per month for most business and residential subscribers. Offsetting increases will be 50% reduction in GTE's intrastate carrier access charges. Changes will take effect by Oct. 11, PUC said. Order also directed AT&T and MCI to report by Dec. 1 on how much their toll rates have gone down as result of access charge reduction.

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Lansing, **Mich.**, city officials have given up on joint venture with Lansing School Dist. to lease tower sites for wireless personal communications services (**PCS**). Instead, they have resurrected earlier idea to lease up to 20 PCS tower sites in city parks and vacant city-owned lots and keep proceeds. City Council last week decided there was no hope for plan first aired in Jan. to lease 8 school-owned and 7 city-owned PCS tower sites, with bulk of estimated \$700,000 in annual proceeds going to fund educational technology at

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Lansing schools. Opposition from parents and neighbors concerned about effects of tower radiation led school district to pull from plan all but one of school sites originally listed. "Our people said 'yes' but the school district said 'no'," said Mayor David Hollister. "We said 'okay, we can't make you take this money.'" City Council will hold public hearings next week to determine residents' reaction to first 5 sites in revised plan. Meanwhile, city's finance administrator said he has strong interest in city-owned tower sites from at least one wireless firm.

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Tex. PUC adopted rules that prohibit telephone solicitors from blocking display of their numbers and names to persons with caller ID service. Rules implement provisions of 1997 telemarketing law. Telemarketers face fine of up to \$1,000 per day if they block display of their company name and originating number. No-block requirement applies regardless of whether live solicitor or automatic dialing and announcing device is used to place calls. Rules require that number that appears must accept incoming calls. They also limit telemarketing calls to hours between 9 a.m. and 9 p.m. and require telemarketers to "make every effort" not to call customer who asks not to be called again.

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Frontier Telephone, N.Y. Dept. of Public Service staff and N.Y. Consumer Protection Board proposed to state PSC plan to address chronic service quality problems with Frontier, formerly known as Rochester Telephone. Plan calls for rebate of \$2 million to customers in recognition of poor service in 1998, tightening service quality targets, maximum \$7 million annual penalty for failure to meet goals, up from current \$1 million. Proposal also would provide for \$20 credit to any customer who experiences missed repair appointment, and waiver of service order charges for missed installation appointment. Frontier also would boost its 1998 network investment to \$80 million -- 20% over amount originally budgeted.

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Ameritech Mich., saying slamming problem has "gone out of control," urged Mich. PSC to give customers option of freezing their toll and long distance carrier choice to prevent slamming. Ameritech said there already have been 40,000 slamming incidents in 1998, compared with 33,800 for all of 1997 and 3,800 for all of 1996. PSC is holding hearings on implementing mandate of 1998 state antislamming law. As part of carrier freeze program, Ameritech suggested lists of "frozen" customers be made available to all interexchange carriers. It also is asking Mich. Attorney Gen.'s Consumer Div. to provide local prosecutors, Better Business Bureaus, local chambers of commerce and Small Business Assn. of Mich. with "look-out list" of long distance companies doing business in state that have been fined in other states for slamming. Telco also is sending its "Slam the Slammers" fact sheet out for broader consumer distribution through groups such as Mich. Alliance for Competitive Telecommunications, Telecommunications Assn. of Mich., Small Business Assn. of

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Mich., Mich. Competitive Telecom Providers Assn.

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Wash. Supreme Court ruled unanimously last week that federal laws preempting state regulation of wireless services don't preclude state courts from awarding damages to cellular customers affected by contract breaches or deceit. State's top court reinstated 1995 class action lawsuit against AT&T Wireless Services that alleged breach of contract and deceptive advertising because of rounding up cellular calls to next full min. Plaintiffs in that suit claimed that practice could cost cellular customer more than 40% of monthly air time nominally promised by cellular calling plan. State Supreme Court ruling didn't address merits but reversed 1996 King County Superior Court decision that suit couldn't be tried in Wash. because of federal preemption. Top Wash. court said award of damages to consumers isn't equivalent of ratemaking, which is sole domain of FCC. Court also denied AT&T request to refer case to FCC, saying claims of deceptive ads were proper matter for state courts.

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SBC Communications and Ameritech reiterated to Ohio PUC Tues. their position that their planned merger doesn't require hearings. Ameritech urged PUC to "reject efforts by competitors to launch an unlawful, expensive and time-consuming fishing expedition on a range of issues that have nothing to do with the merger and instead would only delay the **process**." Companies said their merger would have no effect on day-to-day telephone operations. Also, AT&T told Ind. Utility Regulatory Commission that issues raised by merger can be addressed only through full hearings. It said agency needs to assess whether merger will impair competition by making Ameritech even more dominant in local exchange, and whether there will be adverse effects on employment levels, rates and Ameritech's community involvement.

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ADC Telecom agreed to pay \$200 million cash for outstanding shares of Teledata Communications of Israel and said it expects to close deal by year-end. **ADC** said acquisition will allow it to expand local loop technology offerings, provide new distribution channels to increase international sales, supply platform to develop broadband digital loop carrier system.

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**Motorola's** Cellular Infrastructure Group (**CIG**) signed \$53 million contract with Sichuan Posts & Telecom Administration in China to expand GSM network by 300,000 subscribers. Agreement is part of \$210 million contract won by company from Eastern Communications in June.

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Nortel won \$40 million contract from Chunghwa Telecom of Taiwan for 3rd

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expansion of its GSM network. Nortel said it will install additional radio equipment for network and expand capacity by 400,000 subscribers to 1.5 million.

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DDI Corp. of Japan selected Ciena's dense wavelength division multiplexing (DWDM) system for deployment in nationwide network with service expected to begin early next year. Ciena said DDI is 3rd new Japanese common carrier to select its DWDM products.

----- INDEX REFERENCES -----

COMPANY (TICKER): Northern Telecom Ltd.; BCE Inc.; Northern Telecom Ltd.; U S West Communications Group; Objective Communications Inc.; Bell Atlantic Corp.; CTC Communications Corp.; AT&T Corp.; Ameritech Corp.; SBC Communications Inc.; Teledata Communications Ltd.; Motorola Inc.; Eastern Communications Co. Ltd.; Dainidenden Corp. (NT BCE T.NTL USW OCOM BEL CPTL T **AIT** SBC TLDCF MOT Q.ECM J.DDD)

NEWS SUBJECT: World Equity Index; High-Yield Issuers (**WEI** HIY)

INDUSTRY: Communications Technology; Telecommunications, All; Regional Telephone Systems; Telephone Systems; Long Distance Telephone Providers; Mobile Communication Systems (CMT TEL RTL TLS LDS CTS)

Word Count: 2152

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## EXHIBIT 4



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**Scott C. Cleland**  
 June 24, 1998

## Reciprocal Comp For Internet Traffic--Gravy Train Running Out Of Track

*(Part V of Internet Regulation Preview Series)*

**Summary:** In a classic case of what you see is not necessarily what you get, investors should not expect the current reciprocal compensation arrangement for Internet traffic to continue much past the end of the year. Given that this issue is probably the single greatest opportunity for arbitrage in the whole sector, over 4,000 percent in some instances, TPG cautions investors that this extraordinary arbitrage "gravy train" will run out of track—probably this year. It is simply not sustainable long-term.

Moreover, investors should not be lulled into a false sense of security that 19 consecutive state public utility commissions have ruled (in addition to a recent Federal Court in Texas) that Internet service provider (ISP) traffic passed through a competitive local exchange carrier (CLEC) is classified as a local call. In the coming months, TPG expects the FCC to trump these state decisions by clarifying that Internet traffic is indeed interstate, effectively reasserting its federal jurisdiction over data or Internet transport. (Reciprocal compensation is a regulatory arrangement where local telecom providers pay each other for "the cost" of terminating the calls they originate. In most cases, reciprocal compensation traffic is two-way and thus largely offsetting. However, since Internet/data traffic is one-way, there is little "reciprocal" about this arrangement. It is just a regulatory compensation windfall for CLECs/ISPs.)

**A Big Deal for Investors:** This reciprocal compensation arbitrage is a significant part of the existing "data growth engine" of many CLEC and ISP business models. Consequently, investors need to be aware that in some instances, short-term projected results may be artificially "juiced up," potentially providing an illusion of faster-than-real long-term growth. The flip side of this problem is that reciprocal compensation is a significant and growing liability, primarily for the Baby Bells. It is growing at such a rapid rate that it could be a significant threat to earnings roughly in 1999, if not fixed by the FCC by then.

**Why the FCC Will Fix It:** First, reciprocal compensation for one-way Internet traffic is arguably the single greatest arbitrage opportunity and hence market distortion in the telecom sector today. TPG flagged this important issue in our April 6 "Internet Regulation Preview" bulletin as akin to a broken bank ATM machine that only allows withdrawals and

takes no deposits. No other place in the sector can companies reap as much as a 4,000 percent arbitrage for minimal value-added service. No competitive market, legal or illicit, can generate such gargantuan arbitrage. Only regulatory distortions can generate this size arbitrage over an extended period of time.

Second, this arbitrage opportunity is greatly contributing to an artificial misalignment of the market structure of this newly emerging competitive voice/data niche. Reciprocal compensation is driving many alliances, mergers and acquisitions for purely regulatory and not economic or competitive reasons. Thus, in some instances, an ISP is currently an asset to a CLEC, but could become a serious liability without the arbitrage of reciprocal compensation. Third, it discourages economically sound facilities-based local investment and inhibits the development of an efficient competitive market. It has the perverse effect of turning customers from assets into liabilities. Why would any competitor want to win a customer if that customer would cost them more in reciprocal compensation terminating minutes than they could earn in revenue from that customer?

**What to Expect From the FCC:** Investors need to appreciate that it is not that hard for the FCC to fix this in the coming months. ALTS, the association representing the CLECs, has an active petition (dated June 20, 1997) requesting that the FCC issue a clarification that the traffic in question is local and not interstate. ALTS argues in its petition that "this clarification is clearly in the Commission's (FCC) exclusive jurisdiction." For FCC legal authority, ALTS cites a 1980 Computer II FCC decision which was subsequently upheld in the DC Court of Appeals in 1982 and again in 1984. Now that the states have ruled the CLECs' way, the association likely regrets having requested this clarification from the FCC.

Why would the FCC believe such Internet calls are not local, but interstate? The FCC has exempted this traffic from interstate access charges for over a decade. Why would an exemption from interstate access charges be needed if the FCC thought it was a local call? Moreover, in the FCC's April 10 report to Congress, (paragraph 106) the FCC said that ISPs "are not entitled to reciprocal compensation for terminating local telecommunications traffic." However, the FCC explicitly did not comment on whether CLECs that serve ISPs are entitled to reciprocal compensation for terminating Internet traffic. They said that issue was now before the FCC.

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## EXHIBIT 5

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 1999-259-C • ORDER NO. 1999.690  
OCTOBER 4, 1999

IS RE: Petition of ITC^DeltaCom Communications,	)	ORDER
Inc. for Arbitration with BellSouth	)	ON
Telecommunications, Inc. Pursuant to the	)	ARBITRATION
Telecommunications Act of 1996.	)	

I. INTRODUCTION

This arbitration proceeding is pending before the South Carolina Public Service Commission ("Commission") pursuant to Section 252(b) of the Telecommunications Act of 1996 ("1996 Act"). This proceeding arose when ITC^DeltaCom Communications, Inc. ("ITC^DeltaCom") and BellSouth Telecommunications, Inc. ("BellSouth") were unable to reach agreement on all issues despite the good faith negotiations conducted over an extended period of time. On June 11, 1999, ITC^DeltaCom filed a Petition for Arbitration with BellSouth in South Carolina. BellSouth filed its Response to ITC^DeltaCom's Petition on July 6, 1999. The Petition and Response included a list of some seventy-three (73) issues to be decided by this Commission.

The Hearing of this Arbitration was held on September 8 - 9, 1999, with the Honorable Philip T. Bradley, Chairman, presiding. Prior to the evidentiary hearing, the parties were able to resolve approximately forty (40) of the disputed issues that were originally listed in the Petition. Thus, this Commission will only address in this Order the remaining disputed issues as of the date of the Hearing. At the evidentiary hearing,

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BellSouth further contends that neither the Act nor the FCC rules require that an interconnection agreement contain a definition of flow-through. BellSouth requests that to the extent the Commission determines that such a definition is appropriate, the Commission should adopt BellSouth's definition because it is the only one that comports with the requirements of the Act and the FCC. BellSouth contends that ITC^DeltaCom's definition is overly broad, and places obligations on BellSouth that are above and beyond those set forth in the Act and thus, it is not an appropriate or necessary definition for an interconnection agreement.

Based upon this issue, the positions of the parties, and the evidence from the hearing, the Commission finds that it is necessary to include a definition of flow-through in the interconnection agreement. Of the two definitions, BellSouth's definition of flow-through comports with the requirements of the Act and the FCC. Therefore, the Commission adopts the definition of flow-through as proposed by BellSouth and which is contained in the FCC Second Louisiana Order, at ¶ 107, CC Docket 98-121 (S-13-98).

Ordering Paragraph:

The Commission requires the inclusion of the definition of "flow-through" in the interconnection agreement and requires that the definition of flow-through as contained in the FCC Second Louisiana Order, at ¶ 107, CC Docket 98-121 (S-13-98) be used.

Issue 3:

[Question 1] Should BellSouth be required to pay reciprocal compensation to ITC^DeltaCom for all calls that are properly routed over local trunks, including calls to Information Service Providers ("ISPs")?

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[Question 2] What should be the rate for reciprocal compensation per minute of use, and how should it be applied?

**ITC^DeltaCom Position:**

[Question 1] BellSouth should be required to pay reciprocal compensation for ISP-bound traffic. The appropriate inter-carrier compensation mechanism for ISP-bound traffic is reciprocal compensation because the caller's provider should bear the costs of the call to the ISP.

[Question 2] ITC^DeltaCom is entitled to the tandem termination rate for reciprocal compensation because ITC^DeltaCom's switch serves the same geographic area as BellSouth's tandem switch, and performs the same functions as BellSouth's tandem switch.

**BellSouth Position:**

[Question 1] Under 47 U.S.C. § 251(b)(5) and 47 C.F.R. § 51.701, reciprocal compensation is applicable only to local traffic. "Local" trunks may actually carry access or toll traffic in addition to local traffic, and thus reciprocal compensation is not applicable to all traffic that travels over local trunks. ISP-bound traffic, even if it is carried over local trunks, is not local traffic and is not subject to the reciprocal compensation obligations of the Act. In addition to being contrary to the law, treating ISP-bound traffic as local for purposes of reciprocal compensation is contrary to sound public policy. The Commission need not address this issue at this time because the FCC has jurisdiction over ISP-bound traffic and the FCC decision in this matter will preempt any decision the Commission renders in this docket.

[Question 2] The appropriate rates for reciprocal compensation are the elemental rates for end office switching, tandem switching and common transport that are used to transport and terminate local traffic and were established by this Commission in the cost orders in Docket No. 97-374-C. If a call is not handled by a switch on a tandem basis, it is not appropriate to pay reciprocal compensation for the tandem switching function.

**Discussion:**

[Question 1]

This issue requires the Commission to address the economic principles and public policy concerns underlying reciprocal compensation for ISP-bound traffic for the purposes of this interconnection agreement on a going forward basis. The parties appear to agree that the FCC has deemed ISP-bound traffic to be jurisdictionally interstate. The question pending before the Commission is how, or whether, to provide for compensation

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for ISP-bound traffic. ITC^DeltaCom contends that, despite the fact that the FCC found that ISP-bound traffic is in large pan jurisdictionally interstate, the Commission should order that reciprocal compensation be paid for ISP-bound traffic. (Starkey, Tr. Vol. 1 at 238 - 241). ITC^DeltaCom contends that treating ISP-bound traffic as if it were local for purposes of reciprocal compensation is sound public policy (Starkey, Tr. Vol. at 241). BellSouth, on the other hand, contends that reciprocal compensation is a mechanism that applies only to the exchange of local traffic. (Varner, Tr. Vol. 1 at 434). As recently reiterated by the FCC in its Declaratory Ruling FCC 99.38 in CC Docket Nos. 96-98 and 99-69 adopted February 25, 1999, released February 26, 1999, ("*Declaratory Ruling*") and, as even ITC^DeltaCom admits, ISP-bound traffic is jurisdictionally interstate. (Starkey, fr. Vol. I at 239) Thus, according to BellSouth, it is not included in the Act's requirements regarding reciprocal compensation. BellSouth seeks an order that states that reciprocal compensation only should be applied to traffic that meets the FCC's definition of "local traffic."

ITC^DeltaCom argues that BellSouth should pay reciprocal compensation for all traffic that travels over "local" trunks. ITC^DeltaCom witness Starkey testified that a call originating on the BellSouth network and directed to the ITC^DeltaCom network travels the same path, requires the same use of facilities and generates the same level of cost regardless of whether the call is dialed to an ITC^DeltaCom local residential customer or to an ISP provider. (Starkey, Tr. Vol. 1 a: 245) Thus, Mr. Starkey asserts that the rates associated with recovering the costs for both calls should be the same since both calls

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travel the same path and the same equipment to reach their destination. (Starkey, Tr. Vol. 1 at 246)

BellSouth responds to ITC^DeltaCom's proposal by arguing that such a reciprocal compensation mechanism is inappropriate. According to BellSouth, "local" trunks may properly route or carry access or toll traffic in addition to local traffic. (Vamer, Tr. Vol. 1 at 429). Simply because a local trunk carries ISP-bound traffic, which is jurisdictionally interstate, reciprocal compensation is not applicable. BellSouth witness Vamer testified that the test for the application of reciprocal compensation payments should not be the type of trunk used to transport the traffic; rather the test is the end-to-end nature of the call, as the FCC has reaffirmed. (Vamer, Tr. Vol. 1 at 429-30).

In considering this issue, the Commission recognizes the FCC's *Declaratory Ruling*. In that *Declaratory Ruling*, the FCC concluded that ISP-bound traffic is non-local interstate traffic. FCC 99-38, footnote 87. In reaching its conclusion, the FCC acknowledged that it has construed the reciprocal compensation mechanism of Section 251(b)(5) to apply only to the transport and termination of local traffic. FCC 98-38, ¶ 7. The FCC carefully examined the nature of ISP-bound traffic and noted that "the communications at issue here do not terminate at the ISP's local server, as CLECs and ISPs contend, but continue to the ultimate destinations, specifically at an Internet website that is often located in another state." FCC 98-38, ¶ 12. Further, the FCC acknowledged that "an Internet communication does not necessarily have a point of 'termination' in the traditional sense." FCC 98-38, ¶ 18. The FCC clearly stated that state commissions could decide to impose reciprocal compensation obligations in an arbitration proceeding and

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also stated that state commissions were "free not to require the payment of reciprocal compensation for this traffic." FCC 98-38, ¶ 26.

Based upon the evidence before it, the positions advocated by the parties, and the Declaratory Ruling of the FCC, the Commission finds that reciprocal compensation should not apply to ISP-bound traffic. The FCC in its *Declaratory Ruling* concluded that ISP-bound traffic is non-local interstate traffic and clearly left the determination of whether to impose reciprocal compensation obligations in an arbitration proceeding to the state commissions. FCC 98-38, footnote 87 and ¶ 26. This Commission concludes that ISP-bound traffic is not subject to reciprocal compensation. While it may be true that ISP-bound traffic travels similar paths across the same facilities as local calls to residential customers as advanced by ITC^DeltaCom, it is also clear that ISP-bound calls do not terminate at the ISP. In the example given by witness Starkey for ITC^DeltaCom, the local call to the residential customer clearly terminates on the ITC^DeltaCom network. ISP-bound traffic, on the other hand, does not terminate at the ISP's server but continues to the ultimate Internet destination which is often located in another state. See FCC 99-38, ¶ 12. As ISP-bound traffic does not terminate at the ISP's server on the local network, this Commission finds that ISP-bound traffic is non-local traffic. Further, since Section 251 of the 1996 Act requires that reciprocal compensation be paid for local traffic, the Commission further finds that the 1996 Act imposes no obligation on parties to pay reciprocal compensation for ISP-bound traffic.

The Commission is also aware that the FCC has initiated further proceedings regarding the issue of ISP-bound traffic and reciprocal compensation. Of course, this

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Commission will revisit this issue if the FCC issues a ruling impacting the decision rendered herein.

[Question 2]:

With regard to the appropriate rate for reciprocal compensation, Mr. Starkey for ITC^DeltaCom stated that the rate should be based upon the last approved reciprocal compensation rate in South Carolina which is \$.009 per minute. (Starkey, Tr. Vol. 2 at 179) Mr. Varner for BellSouth testified that the rate should be the same rate between the parties but further stated that the rate should only apply to those elements that are actually used to transport and terminate traffic. (Varner, Tr. Vol. 2 at 180) BellSouth contends that it is not appropriate for ITC^DeltaCom to charge BellSouth for tandem switching functions it does not perform. According to BellSouth, if a call is not handled by a switch on a tandem basis, it is not appropriate to pay reciprocal compensation for the tandem switching function (Varner, Tr. Vol. 1 at 433). According to ITC^DeltaCom, it is entitled to the tandem switching rate because its switch serves the same geographic area as BellSouth's tandem switch. (Starkey, Tr. Vol. 1 at 255). ITC^DeltaCom further contends that its switch performs many of the same functions that BellSouth's tandem performs (Starkey, Tr. Vol. 1 at 257).

In determining the appropriate reciprocal compensation rate, the Commission notes that the previously approved interconnection agreement contained a reciprocal compensation rate of 9.009 per minute for termination of local traffic. This Commission found that rate to be compliant with the requirements of Section 252(d) of the 1996 Act. The Commission finds that nothing has changed in the past two years that causes the

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Commission to conclude that the underlying costs associated with **transport** and termination have changed. The Commission concludes that the 5.009 per minute is appropriate and approves the previously approved rate of **\$ .009** per minute as the rate for reciprocal compensation for the **new** interconnection agreement.

**Ordering Paragraph:**

[Question 1] The Commission finds that ISP-bound traffic is non-local interstate traffic. As such, the Commission **finds** on a **going-forward** basis and for the purposes of this interconnection agreement that W-bound traffic is not subject to **the** reciprocal compensation obligations of the 1996 Act.

[Question 2] The Commission approves a reciprocal compensation rate of **\$ .009** per minute for local traffic and directs the parties to include this rate in the interconnection agreement. **However**, as explained above, reciprocal compensation will not apply to ISP bound traffic.

**Issue 3(h):**

If **ITC^DeltaCom** needs to reconnect service following **an** order for a disconnect, should **BellSouth** be required to **reconnect** service within 48 hours?

**ITC^DeltaCom Position:**

Following an order for a disconnect, **BellSouth** should be required to reconnect the service to **ITC^DeltaCom's** customer within 48 hours. According to **ITC^DeltaCom**, the issue **often** arises in situations in which a customer pays an outstanding bill and has **been** disconnected for failure to pay, or when a reconnect must be made quickly as in the case of slamming.

**BellSouth Position:**

**BellSouth** cannot reserve facilities for 48 hours following an order for a disconnect. As a practical **matter**, once a **UNE facility** has **been** disconnected for any reason, that facility is subject to immediate reuse, whether by **CLECs** or by **BellSouth's** end users. **BellSouth** should not be required to maintain facilities for any set period of time **once** service has been disconnected. Nonetheless, **BellSouth** will **agree** to use its best efforts to reconnect service within 23 hours.